

The State Immigration Total Enforcement “SITE” Act

AN ACT prohibiting sanctuary cities, facilitating cooperation with federal immigration enforcement, protecting legal workers from discriminatory termination, prohibiting the provision of public benefits to illegal aliens, prohibiting the enforcement of illegal contracts, taxing remittances, and taking other measures to discourage illegal immigration.

Be it enacted by the Legislature of the State of [State]:

Sec. 1. Definitions. As used in this act:

(a) “Alien” means any person who is not a citizen or national of the United States, as described in Title 8, Section 1101, *et seq.*, of the United States Code and any amendments thereto.

(b) “Employee” means any person directed, allowed, or permitted to perform labor or service of any kind by an employer, with the exception of casual domestic labor hired to work in or around an individual’s personal abode. The employees of an independent contractor working for a business entity shall not be regarded as the employees of the business entity, for the purposes of this section.

(c) “Business entity” means any person or group of persons performing or engaging in any activity, enterprise, profession or occupation for gain, benefit, advantage or livelihood, whether for profit or not-for-profit. “Business entity” shall include, but not be limited to:

(1) Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts and any business entity that registers with the secretary of state.

(2) Any business entity that possesses a business license, permit, certificate, approval, registration, charter or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without such a business license.

(d) “Public employer” is defined as every department, agency, or instrumentality of the state or a political subdivision of the state.

(e) “Unauthorized alien” means an alien who is not authorized to work in the United States, as defined in Title 8, Section 1324a(h)(3), of the United States Code.

(f) “Law enforcement officer” means a sheriff, deputy sheriff, police officer, or other peace officer of a municipality with the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of municipalities.

(g) “Municipality” means any county, city, town, or village.

(h) “Municipal official” means any elected or appointed official or any law enforcement officer serving the municipality.

(i) “Sanctuary policy” means any order, ordinance, or law enforcement policy, regardless of whether formally enacted or informally adopted, that:

(1) Limits or prohibits any municipal official or person employed by the municipality from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien within such municipality;

(2) Purports to grant to aliens who are unlawfully present in the United States the right to lawful presence or status within the municipality in violation of federal law;

(3) Violates Title 8, Section 1373 of the United States Code in any way;

(4) Restricts in any way, or imposes any conditions upon, the municipality's cooperation or compliance with detainers or other requests from United States Immigration and Customs Enforcement to maintain custody of any alien or to transfer any alien to the custody of United States Immigration and Customs Enforcement;

(5) Requires United States Immigration and Customs Enforcement to obtain a warrant or demonstrate probable cause before complying with detainers or other requests from United States Immigration and Customs Enforcement to maintain custody of any alien or to transfer any alien to the custody of United States Immigration and Customs Enforcement; or

(6) Prevents the municipality's law enforcement officers from asking any individual his or her citizenship or immigration status.

Sec. 2. Sanctuary policies prohibited.

(a) No municipality or political subdivision of this State shall enact or adopt any sanctuary policy. Any municipality or political subdivision of this State that enacts or adopts a sanctuary policy shall be ineligible for any moneys provided through grants or other appropriations administered by any State agency or department until the sanctuary policy is repealed or is no longer in effect.

(b) No municipality or political subdivision of this State shall issue any identity document or card to any alien who is unlawfully present in the United States. Any municipality or political subdivision of this State that issues any identity document or card to any alien who is unlawfully present in the United States shall be ineligible for any moneys provided through grants or other appropriations administered by any State agency or department until the sanctuary policy is repealed or is no longer in effect.

(c) Upon receiving a complaint from any resident of the State of *[State]* regarding a violation of this Act by a specific government entity, municipality, or political subdivision of this State, the attorney general shall issue an opinion stating whether such government entity, municipality, or political subdivision has a sanctuary policy in place or has violated subsection (b). If the attorney general of the State of *[State]* issues an opinion stating that the government entity, municipality, or political subdivision has a sanctuary policy in place or has violated subsection (b), the government entity, municipality, or political subdivision shall be ineligible to receive moneys provided through grants or other disbursements administered by any State agency or department until the attorney general of the State of *[State]* certifies that the sanctuary policy is repealed or is no longer in effect, or the violation of subsection (b) has ended.

(d) Prior to the provision of funds or awarding of any grants to a government entity, municipality, or political subdivision of this State, any member of the legislature may request that the attorney general of the State of *[State]* issue an opinion stating whether the government entity, municipality, or political subdivision has current policies in contravention of this section. Any government entity, municipality, or political subdivision deemed ineligible for any moneys under this section shall remain ineligible until the attorney general of the State of *[State]* certifies that the government entity, municipality, or political subdivision has come into full compliance with this section.

(e) The governing body, sheriff, or chief of police of each municipality shall provide each law enforcement officer with a printed copy of this section and with written notice of his or her duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration. Every state agency with law enforcement powers shall provide each law enforcement officer with a printed copy of this

section and with written notice of his or her duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration.

Sec. 3. Cooperation of State and local law enforcement agencies in the enforcement of federal immigration laws.

(a) No official or agency of this State or of county, city, town or other political subdivision of this State may adopt a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law or that in any way limits communication between its officers and federal immigration officials in violation of Title 8, Section 1373 of the United States Code.

(b) For any lawful stop, detention or arrest made by a law enforcement official or a law enforcement agency of this State or a law enforcement official or a law enforcement agency of a county, city, town or other political subdivision of this State in the enforcement of any other law or ordinance of a county, city or town or this State, where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person by contacting the federal government pursuant to Title 8, Section 1373(c) of the United States Code, except if the determination may hinder or obstruct an investigation. Any person who is arrested and booked into custody at a jail shall have the person's immigration status determined before the person is released. The person's immigration status shall be verified with the federal government pursuant to Title 8, Section 1373(c) of the United States Code. A law enforcement official or agency of this State or a county, city, town or other political subdivision of this State may not consider race, color or national origin in implementing the requirements of this subsection. A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

- (1) An unexpired [State] driver's license issued after [date state began requiring proof of lawful presence for aliens to obtain driver's licenses].
- (2) A driver's license or nondriver's identification card issued by another state within the United States if the driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship;
- (3) A birth certificate that verifies birth in the United States;
- (4) A United States valid or expired passport;
- (5) A United States naturalization documents;
- (6) A valid tribal enrollment card or other form of tribal identification;
- (7) A consular report of birth abroad of a citizen of the United States of America;
- (8) A certificate of citizenship issued by United States Citizenship and Immigration services;
- (9) A certification of report of birth issued by the United States department of state;
- (10) A United States military record of service showing the applicant's place of birth in the United States.

(c) If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or on the assessment of any monetary obligation that is imposed, United States Immigration and Customs Enforcement shall be immediately notified.

(d) Notwithstanding any other law, a law enforcement agency may securely transport an alien whom the agency has received verification is unlawfully present in the United States and who is

in the agency's custody to a federal facility in this state or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency.

(e) In the implementation of this section, an alien's immigration status may be determined by:

(1) United States Immigration and Customs Enforcement pursuant to Title 8, Section 1373(c), of the United States Code; or

(2) A law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.

(f) Except in relation to matters in which the officer is adjudged to have acted in bad faith, a law enforcement officer is indemnified by the law enforcement officer's agency against reasonable costs and expenses, including attorney fees, incurred by the officer in connection with any action, suit or proceeding brought pursuant to this section in which the officer may be a defendant by reason of the officer being or having been a member of the law enforcement agency.

(g) In the implementation of this section, the verification of any alien's immigration status shall occur by the federal government, pursuant to Title 8, Section 1373(c), of the United States Code. At no point shall any state, county, or municipal law enforcement officer attempt to independently verify the immigration status of any alien.

(h) This section shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.

Sec. 4. Discrimination against authorized employees prohibited.

(a) It shall be a discriminatory practice for a business entity or employer to discharge an employee working in the State of *[State]* who is a United States citizen or an alien who is authorized to work in the United States as defined in Title 8, Section 1324a(h)(3), of the United States Code while retaining or hiring an employee whom the business entity or employer knows, or reasonably should have known, is an unauthorized alien.

(b) Any employee discharged in violation of subsection (a) shall have standing and a private cause of action to file a civil complaint in a district court of this state against any business entity or employer claiming that such business entity or employer has violated subsection (a). Any recovery under this subsection shall be limited to compensatory relief and shall not include any civil or criminal sanctions against the employer. The court shall also award costs and attorney's fees to a prevailing complainant.

(c) In proceedings of the court, the determination of whether an employee is an unauthorized alien shall be made by the federal government, pursuant to Title 8, Section 1373(c) of the United States Code. The court shall consider only the federal government's determination when deciding whether an employee is an unauthorized alien. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government and may request the federal government to provide further automated or testimonial verification.

Sec. 5. State and local benefits to aliens unlawfully present in the United States prohibited.

(a) No alien unlawfully present in the United States shall receive any state or local public benefit, except for state or local public benefits that are required to be offered by Title 8, Section 1621(b), of the United States Code.

(b) “Public benefit” means: any grant, contract, loan, or license provided by an agency of state or local government; or any retirement, welfare, health, disability, housing, postsecondary education, food assistance, or unemployment benefit under which payments, assistance, credits, or reduced rates or fees are provided, including resident or in-state tuition at any postsecondary education institution.

(c) In addition to providing proof of other eligibility requirements, at the time of application for any state or local public benefit, an applicant who is eighteen years of age or older shall sign a statement under oath declaring whether or not he or she is a citizen of the United States. The application shall inform the applicant that falsely swearing to be a United States citizen is a crime under Title 18, Section 911, of the United States Code.

(d) An applicant who is an alien shall not receive any state or local public benefit unless the alien’s lawful presence in the United States is first verified by the federal government, pursuant to Title 8, Section 1373(c) of the United States Code. State and local agencies administering public benefits in this state shall cooperate with the United States Department of Homeland Security in achieving the verification of aliens’ lawful presence in the United States in furtherance of this section. Verification shall occur through the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security, or any successor program established by the federal government.

Sec 6. Determination of bail.

(a) When a person is charged with a crime for which bail is required, or is confined for any period in a state, county, or municipal jail, a reasonable effort shall be made to determine if the person is an alien unlawfully present in the United States by verification with the federal government pursuant to Title 8, Section 1373(c), of the United States Code.

(b) A verification inquiry, pursuant to Title 8, Section 1373(c), of the United States Code shall be made within 48 hours to the Law Enforcement Support Center of United States Immigration and Customs Enforcement or to another office or agency designated for that purpose by the United States Department of Homeland Security. If the person is determined to be an alien unlawfully present in the United States, the person shall be considered a flight risk and shall be detained until prosecution or until handed over to federal immigration authorities.

Sec 7. Non-enforceability of contracts requiring continued violations of law.

(a) No court of this state shall enforce the terms of, or otherwise regard as valid, any contract between a party and an alien unlawfully present in the United States, if the party had direct or constructive knowledge that the alien was unlawfully present in the United States at the time the contract was entered into, and the performance of the contract required the alien to remain unlawfully present in the United States for more than 24 hours after the time the contract was entered into, or performance could not reasonably be expected to occur without such remaining.

(b) This section shall not apply to a contract for lodging for one night, a contract for the purchase of food to be consumed by the alien, a contract for medical services, or a contract for transportation of the alien that is intended to facilitate the alien’s return to his or her country of origin.

(c) This section shall not apply to a contract authorized by federal law.

(d) In proceedings of the court, the determination of whether an alien is unlawfully present in the United States shall be made by the federal government, pursuant to Title 8, Section 1373(c), of the United States Code. The court shall consider only the federal government’s determination

when deciding whether an alien is unlawfully present in the United States. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government and may request the federal government to provide further automated or testimonial verification.

Sec. 8. Unlawful smuggling or harboring prohibited.

(a) It is unlawful for any person to transport or move an alien, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, unless such transporting or moving is otherwise expressly permitted by federal law.

(b) It is unlawful for any person to conceal, harbor, or shield from detection an alien, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, unless such concealment, harboring, or shielding is otherwise expressly permitted by federal law.

(c) It is not a violation of subsections (a) or (b) of this section for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

(d) The determination of whether an alien is unlawfully present in the United States shall be made by the federal government, pursuant to Title 8, Section 1373(c), of the United States Code. In the enforcement of this section, no state, county, or local law enforcement officer shall attempt to independently determine whether an alien is unlawfully present in the United States.

(e) Violation of this section constitutes a class ___ felony.

Sec. 9. Taxation of transfers.

(a) Any money transmitter, or wire transmitter business, or such transmitter's agent or delegate, shall collect a fee of five dollars (\$5.00) for each transaction not in excess of two hundred and fifty dollars (\$250) and in addition to such fee an amount equal to two percent (2%) of the amount in excess of two hundred and fifty dollars (\$250).

(b) The fee prescribed by subsection (a) of this section shall be remitted quarterly to the *[State Department of Revenue]* using such forms as the *[State Department of Revenue]* may prescribe for such purpose. All required forms and remittances shall be filed with the *[State Department of Revenue]* not later than the fifteenth day of the month following the close of each calendar quarter.

(c) Every transmitter and their agents or delegates shall post a notice on a form prescribed by the *[State Department of Revenue]* that notifies customers that upon filing an individual income tax return with the *[State Department of Revenue]* with a valid social security number or employer identification number the customer shall be entitled to an income tax credit equal to the amount of the fee paid by the customer for the transaction.

(d) The *[State Department of Revenue]* shall be afforded all provisions currently under law to enforce the provisions of subsections (a) and (b) of this section. If a money transmitter or wire transmitter business fails to file reports or fails to remit the fee authorized by subsection (a) of

this section, the *[State Department of Revenue]* shall have the authority to suspend any state licenses of the money transmitter or wire transmitter business. A notification of the suspension shall also be sent to the *[State Banking Commission]*. The money transmitter or wire transmitter business may not reapply for any suspended license until all required reports have been filed and all required fee amounts have been remitted.

Sec. 10. Severability.

If any provision of this act is held to be unconstitutional under the United States Constitution or the *[State]* constitution, that provision shall be severed from the act, and the other provisions of this act shall remain valid and in effect.